

AMENDED IN ASSEMBLY AUGUST 20, 2012

AMENDED IN ASSEMBLY AUGUST 6, 2012

AMENDED IN ASSEMBLY JUNE 27, 2012

AMENDED IN SENATE MAY 29, 2012

AMENDED IN SENATE MAY 1, 2012

AMENDED IN SENATE APRIL 9, 2012

SENATE BILL

No. 1225

**Introduced by Senator Padilla
(Coauthor: Senator Correa)**

(Coauthors: Assembly Members Davis, Galgiani, and Williams)

February 23, 2012

An act to add Sections 14031.9, 14070.3, 14070.5, and 14070.7 to, and to repeal and add Article 5.2 (commencing with Section 14072) of Chapter 1 of Part 5 of Division 3 of Title 2 of, the Government Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1225, as amended, Padilla. Intercity rail agreements.

Existing law authorizes the Department of Transportation to contract with Amtrak for intercity passenger rail services and provides funding for these services from the Public Transportation Account. Existing law, until December 31, 1996, authorized the department, subject to approval of the Secretary of the Business, Transportation and Housing Agency, to enter into an interagency transfer agreement under which a joint powers board assumes responsibility for administering the state-funded intercity rail service in a particular corridor. Existing law,

with respect to a transferred corridor, requires the board to demonstrate the ability to meet performance standards established by the secretary.

This bill would authorize the department, with the approval of the secretary, to enter into an additional interagency transfer agreement with respect to the LOSSAN Corridor, defined to mean the intercity passenger rail corridor between San Diego, Los Angeles, and San Luis Obispo, if the LOSSAN Agency, an existing joint powers agency, is reconstituted through an amended joint powers agreement approved by the governing boards of its members to enable that agency to enter into an interagency transfer agreement with the secretary relative to the LOSSAN Corridor.

This bill would require an interagency transfer agreement for the LOSSAN Corridor to cover the initial 3-year period after the transfer. The bill would require a transfer agreement, as provided above, to be entered into by June 30, 2014, subject to negotiation and approval by the state and the LOSSAN Corridor Joint Powers Agency.

Existing law requires the level of service to be funded by the state pursuant to a transfer agreement to not be less than the current number of intercity round trips operated in a corridor and serving the same endpoints.

This bill would require the service funded by the state in the LOSSAN Corridor to be at an appropriate level as determined in the interagency transfer agreement, and would require the level of funding provided by the state ~~pursuant to a transfer agreement for the LOSSAN Corridor to not be less than the funding level provided in the 2012–13 fiscal year operating contract between the department and Amtrak~~ *for intercity passenger rail service in the corridor to be maintained at a level at least equal to the current level of service provided in the corridor as of January 1, 2014, for not less than a 3-year period.*

Existing law provides for the allocation of state funds by the secretary to a joint powers board under an interagency transfer agreement based on the annual business plan for the intercity rail corridor and subsequent appropriation of state funds. Existing law states that the interagency transfer agreement may provide that any additional funds required to operate the passenger rail service during a fiscal year shall be provided by the joint powers board from jurisdictions that receive service.

This bill, with respect to the LOSSAN Corridor, would instead provide that those funds may be provided by the board. The bill, with regard to that corridor, would provide that local resources shall not be available to offset any redirection, elimination, reduction, or reclassification by

the state of state resources for operating intercity rail services. In addition, with regard to that corridor, the bill would require the passenger rail equipment used for intercity passenger rail services to be the same type of equipment used on other state-funded intercity passenger rail services. The bill would prohibit termination of feeder bus services connecting the LOSSAN and San Joaquin Corridors except for specified reasons.

This bill would authorize the secretary to adopt new performance standards by December 31, 2014, for intercity rail services in the LOSSAN Corridor.

This bill would repeal now-obsolete provisions authorizing the Southern California Regional Rail Authority to be a party to an interagency transfer agreement for intercity rail services in specified counties.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. This act shall be known and may be cited as the
- 2 Intercity Passenger Rail Act of 2012.
- 3 SEC. 2. (a) The Legislature finds and declares all of the
- 4 following:
- 5 (1) An intercity passenger rail system, linking major urban
- 6 centers and complemented by feeder bus services that provide
- 7 access to outlying areas and destinations, is an important element
- 8 of the state's transportation system, and shall remain a state-funded
- 9 program.
- 10 (2) The state has a continuing interest in the provision of
- 11 cost-effective intercity passenger rail services and has a
- 12 responsibility to coordinate intercity passenger rail services
- 13 statewide. Some state function needs to be sustained even if the
- 14 responsibility for the current operations on intercity-rail passenger
- 15 rail routes is transferred.
- 16 (3) Since 1976, the state has invested over one billion eight
- 17 hundred million dollars (\$1,800,000,000) in capital improvements
- 18 and operating support for intercity passenger rail service and must
- 19 ensure the protection of that investment.
- 20 (b) The Legislature, through the enactment of this act, intends
- 21 all of the following:

1 (1) The Secretary of Business, Transportation and Housing to
2 be responsible for the overall planning, coordination, and budgeting
3 of the intercity passenger rail service consistent with this act.

4 (2) If the secretary determines that transferring responsibility
5 for intercity passenger rail service in a particular corridor or
6 corridors to a statutorily created joint powers agency would result
7 in administrative or operating cost reductions, the secretary may
8 authorize the Department of Transportation to enter into an
9 interagency transfer agreement to effect a transfer of those
10 administrative functions, consistent with this act.

11 (3) Any intercity passenger rail corridor for which administrative
12 responsibility has been transferred to a joint powers board through
13 an interagency transfer agreement to remain a component of the
14 statewide system of intercity passenger rail corridors.

15 (4) The public interest requires expansion of the state intercity
16 passenger rail program in order to keep pace with the needs of an
17 expanding population.

18 (5) For not less than a three-year period, the level of state
19 funding for intercity rail service in each corridor should be
20 maintained at a level equal to at least the current level of service
21 in the corridor, thus providing fiscal stability that will allow
22 appropriate planning and operation of these services.

23 (6) It is in the public interest to ensure fiscal accountability that
24 the intercity passenger rail service operating in the LOSSAN
25 Corridor maintain a ratio of fare revenue to operating cost of no
26 less than 58 percent.

27 (7) It is in the public interest that the LOSSAN Corridor Joint
28 Powers Agency retain an individual to manage the contract with
29 the state who has previous experience operating or managing
30 intercity or commuter passenger rail services.

31 SEC. 3. Section 14031.9 is added to the Government Code, to
32 read:

33 14031.9. (a) (1) This section shall apply only to the San
34 Diego-Los Angeles-San Luis Obispo (LOSSAN) Corridor, and
35 only if that corridor is the subject of an interagency transfer
36 agreement. Section 14031.8 shall not apply to that corridor except
37 as specifically provided.

38 (2) The Secretary of Business, Transportation and Housing shall
39 establish, through an annual budget process, the level of state

1 funding available for the operation of intercity passenger rail
2 service in the LOSSAN Corridor.

3 (b) Where applicable, operating funds shall be allocated by the
4 secretary to the LOSSAN Corridor Joint Powers Agency in
5 accordance with the interagency transfer agreement that includes
6 mutually agreed-upon rail services. Funds for the administration
7 and marketing of services, as appropriate, shall also be transferred
8 by the secretary to the LOSSAN Corridor Joint Powers Agency,
9 subject to the terms of the interagency transfer agreement.

10 (c) The LOSSAN Corridor Joint Powers Agency or regional
11 agencies may, but shall not be required to, augment state-provided
12 resources to expand intercity passenger rail services using local
13 resources, or to address funding shortfalls in achieving agreed-upon
14 performance standards.

15 (d) The department may provide any support services as may
16 be mutually agreed upon by the board and the department.

17 (e) Operating costs shall be controlled by dealing with, at a
18 minimum, the Amtrak cost allocation formula and the ability to
19 contract out to Amtrak or other rail operators as a part of federal
20 legislation dealing with Amtrak reauthorization.

21 (f) The performance standards adopted pursuant to subdivision
22 (f) of Section 14031.8 shall apply to the LOSSAN Corridor to the
23 extent it is among the corridors subject to an interagency transfer
24 agreement. To the extent necessary, as determined by the secretary,
25 performance standards may be modified not later than December
26 31, 2014, relative to the LOSSAN Corridor to the extent it is among
27 the corridors subject to an interagency transfer agreement.

28 (g) Notwithstanding any other provision of this section, local
29 resources described in subdivision (c) shall not be available for
30 expenditure to offset any redirection, elimination, reduction, or
31 reclassification by the state of state resources for operating intercity
32 passenger rail services as identified in subdivision (b).

33 SEC. 4. Section 14070.3 is added to the Government Code, to
34 read:

35 14070.3. (a) If authorized by the secretary, the department
36 may, through an interagency transfer agreement, transfer to the
37 LOSSAN Corridor Joint Powers Agency, and that agency may
38 assume, all responsibility for administering state-funded intercity
39 passenger rail service in the San Diego-Los Angeles-San Luis
40 Obispo (LOSSAN) Corridor. Upon the date specified in the

1 agreement, the LOSSAN Corridor Joint Powers Agency shall
2 succeed to the department's powers and duties relative to that
3 service, except that the department shall retain responsibility for
4 developing budget requests for the service through the state budget
5 process, which shall be developed in consultation with that agency,
6 and for coordinating service in the corridor with other intercity
7 passenger rail services in the state.

8 (b) With respect to the LOSSAN Corridor, an interagency
9 transfer agreement pursuant to subdivision (a) shall be entered into
10 on or before June 30, 2014, subject to negotiation and approval
11 by the state and the LOSSAN Corridor Joint Powers Agency.

12 (c) The secretary shall require the LOSSAN Corridor Joint
13 Powers Agency to demonstrate the ability to meet the performance
14 standards established by the secretary pursuant to subdivision (f)
15 of Section 14031.8 or subdivision (f) of Section 14031.9, whichever
16 is applicable.

17 (d) Section 14070.2 shall not apply to the LOSSAN Corridor.

18 SEC. 5. Section 14070.5 is added to the Government Code, to
19 read:

20 14070.5. (a) An interagency transfer agreement between the
21 department and the LOSSAN Corridor Joint Powers Agency, when
22 approved by the secretary, shall do all of the following:

23 (1) Specify the date and conditions for the transfer of
24 responsibilities and identify the annual level of funding and ensure
25 that the level of funding is consistent with and sufficient for the
26 planned service improvements within the LOSSAN Corridor. The
27 interagency transfer agreement shall cover the initial three-year
28 period after the transfer, but may be extended thereafter by mutual
29 agreement.

30 (2) Identify, for the initial year and subsequent years, the funds
31 to be transferred to the agency including state operating subsidies
32 made available for intercity rail services in the corridor, and funds
33 currently used by the department for administration and marketing
34 of the corridor, with the amounts adjusted annually for inflation
35 and in accordance with the business plan.

36 (3) Specify the level of service to be provided, the respective
37 responsibilities of the agency and the department, the methods that
38 the department will use to ensure the coordination of services with
39 other rail passenger services in the state, and the methods that the

1 department will use for the annual review of the business plan and
2 annual proposals on funding and appropriations.

3 (4) Describe the terms for transferring to the LOSSAN Corridor
4 Joint Powers Agency car and locomotive train sets, and other
5 equipment and property owned by the department and required
6 for intercity passenger rail service in the LOSSAN Corridor,
7 including, but not limited to, the number of units to be provided,
8 liability coverage, maintenance and warranty responsibilities, and
9 indemnification issues.

10 (5) Describe auditing responsibilities and process requirements,
11 reimbursement and billing procedures, the responsibility for
12 funding shortfalls, if any, during the course of each fiscal year, an
13 operating contract oversight review process, performance standards
14 and reporting procedures, the level of rail infrastructure
15 maintenance, and other relevant monitoring procedures. The
16 description shall contain an evaluation of the impact of any transfer
17 of equipment on other intercity corridors. The agreement shall
18 endeavor to minimize the impact and maximize the efficient use
19 of the equipment, including continued joint use of equipment that
20 is currently shared by one or more corridors.

21 (b) Use of the annual state funding allocation, as set forth in the
22 interagency transfer agreement, shall be described in an annual
23 business plan submitted by the LOSSAN Corridor Joint Powers
24 Agency to the secretary for review and recommendation by April
25 1 of each year. The business plan, when approved by the secretary,
26 shall be deemed accepted by the state. The budget proposal
27 developed by the department for the subsequent year shall be based
28 upon the business plan approved by the secretary. The business
29 plan shall be consistent with the interagency transfer agreement,
30 and shall include a report on the recent as well as historical
31 performance of the corridor service, an overall operating plan
32 including proposed service enhancements to increase ridership
33 and provide for increased traveler demands in the corridor for the
34 upcoming year, short-term and long-term capital improvement
35 programs, funding requirements for the upcoming fiscal year, and
36 an action plan with specific performance goals and objectives. The
37 business plan shall document service improvements to provide the
38 planned level of service, inclusion of operating plans to serve peak
39 period work trips, and consideration of other service expansions
40 and enhancements. The initial business plan shall be consistent

1 with the immediately previous State Rail Plan developed by the
2 department pursuant to Section 14036. The business plan shall
3 clearly delineate how funding and accounting for state-sponsored
4 intercity passenger rail services shall be separate from locally
5 sponsored services in the corridor. Proposals to expand or modify
6 intercity passenger rail services shall be accompanied by the
7 identification of all associated costs and ridership projections. The
8 business plan shall establish, among other things: fares, operating
9 strategies, capital improvements needed, and marketing and
10 operational strategies designed to meet performance standards
11 established in the interagency transfer agreement.

12 (c) Based on the annual business plan and the subsequent
13 appropriation by the Legislature the secretary shall allocate state
14 funds on an annual basis to the LOSSAN Corridor Joint Powers
15 Agency. As provided in the interagency transfer agreement, any
16 additional funds that are needed to operate the passenger rail
17 service during a fiscal year may be provided by the LOSSAN
18 Corridor Joint Powers Agency from jurisdictions that receive
19 service. In addition, the LOSSAN Corridor Joint Powers Agency
20 may use any cost savings or farebox revenues to provide service
21 improvements related to intercity service. In any event, the agency
22 shall report the fiscal results of the previous year's operations as
23 part of the annual business plan.

24 (d) (1) The level of service funded by the state in the LOSSAN
25 Corridor shall be at an appropriate level as determined in the
26 interagency transfer agreement, ~~and the funding provided by the~~
27 ~~state shall in no case be less than the funding level for that corridor~~
28 ~~provided in the 2012-13 fiscal year operating contract between~~
29 ~~the department and Amtrak for the corridor. Subject~~

30 (2) *For not less than a three-year period, the level of state*
31 *funding for intercity passenger rail service in the LOSSAN*
32 *Corridor shall be maintained at a level equal to at least the current*
33 *level of service provided in the corridor as of January 1, 2014.*

34 (3) *Subject to Section 14035.2, the level of funding provided*
35 *by the state in the LOSSAN Corridor shall also include funding at*
36 *the same level provided as of January 1, 2013, for feeder bus*
37 *service that is operated in conjunction with the trains. However,*
38 *the interagency transfer agreement shall not prohibit the LOSSAN*
39 *Corridor Joint Powers Agency from reducing the number of feeder*

1 bus route miles if it determines that a feeder bus route is not cost
2 effective as provided in Section 14035.2.

3 (e) Feeder bus services that provide connections for intercity
4 rail passengers from the LOSSAN Corridor to the state-supported
5 San Joaquin passenger rail service shall not be terminated unless
6 the bus services fail to meet the cost-effectiveness standard
7 described in paragraph (3) of subdivision (a) of Section 14035.2.

8 (f) Nothing in this article shall be construed to preclude
9 expansion of state-approved intercity passenger rail service.

10 (g) Notwithstanding any other provision of this section, local
11 resources described in subdivision (c) shall not be available for
12 expenditure to offset any redirection, elimination, reduction, or
13 reclassification by the state of state resources for operating intercity
14 passenger rail services.

15 (h) The passenger rail equipment regularly used for intercity
16 passenger rail service on the LOSSAN Corridor shall be the same
17 type of equipment regularly used on other intercity corridors funded
18 by the state. The purpose of this requirement is to ensure that there
19 is a statewide pool of common intercity passenger rail equipment
20 for purposes of interoperability among the state-funded corridors
21 and for vehicle fleet management.

22 (i) Section 14070.4 shall not apply to the LOSSAN Corridor.

23 SEC. 6. Section 14070.7 is added to the Government Code, to
24 read:

25 14070.7. The department and the LOSSAN Rail Corridor
26 Agency, to the extent the agency assumes administrative
27 responsibility for intercity passenger rail services on the LOSSAN
28 Corridor through an interagency transfer agreement, may, through
29 a competitive solicitation process, contract with Amtrak or with
30 organizations authorized by state or federal law to provide intercity
31 passenger rail services, and may contract with rail corporations
32 and other rail operators for the use of the tracks and other facilities
33 and for the provision of intercity passenger rail services on terms
34 and conditions as the parties may agree. The department is deemed
35 to be a third-party beneficiary of the contract, and the contract
36 shall not contain any provision or condition that would negatively
37 impact on or conflict with any other contracts the department has
38 regarding intercity passenger rail services. The LOSSAN Rail
39 Corridor Agency, if it succeeds the department as sponsor of
40 state-supported intercity passenger rail services on the LOSSAN

1 Corridor through an interagency transfer agreement, is deemed to
2 be an agency of the state for all purposes related to intercity
3 passenger rail services, including Section 5311 of Title 49 of the
4 United States Code.

5 Section 14070.6 shall not apply to the LOSSAN Corridor.

6 SEC. 7. Article 5.2 (commencing with Section 14072) of
7 Chapter 1 of Part 5 of Division 3 of Title 2 of the Government
8 Code is repealed.

9 SEC. 8. Article 5.2 (commencing with Section 14072) is added
10 to Chapter 1 of Part 5 of Division 3 of Title 2 of the Government
11 Code, to read:

12
13 Article 5.2. LOSSAN Corridor
14

15 14072. (a) The LOSSAN Rail Corridor Agency, also known
16 as the LOSSAN Agency, is an existing joint powers authority
17 established to provide an organization capable of implementing
18 the recommendations contained in the State Rail Corridor Study
19 Group's June 1987 report entitled "Los Angeles-San Diego State
20 Rail Corridor Study" and undertaking related efforts to improve
21 intercity services and facilities in the corridor and to coordinate
22 subcorridor commuter rail services with intercity services. The
23 LOSSAN Agency is composed of voting members, as specified
24 in the joint powers agreement.

25 (b) "LOSSAN Corridor" or "LOSSAN Rail Corridor" means
26 the San Diego-Los Angeles-San Luis Obispo intercity passenger
27 rail corridor.

28 14072.2. This article shall be applicable only if the members
29 of the LOSSAN Agency enter into an amended joint powers
30 agreement to expand the authority of the agency to permit the
31 administration of state-funded intercity passenger rail services on
32 the LOSSAN Corridor, and the LOSSAN Agency thereafter elects
33 to become a party to an interagency transfer agreement pursuant
34 to Article 5 (commencing with Section 14070). The amended joint
35 powers agreement shall establish the terms and conditions for the
36 joint powers agency and is subject to the approval of the governing
37 board of each member agency of the LOSSAN Agency. Only the
38 LOSSAN Agency operating under the amended joint powers
39 agreement, and not the LOSSAN Agency existing on January 1,

- 1 2013, may exercise jurisdiction over intercity rail services on the
- 2 LOSSAN Corridor under an interagency transfer agreement.

O